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KANTOOR VAN DIE PRESIDENT

No. 2006.

25 November 1994

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet, wat hierby ter algemene inligting gepubliseer word:

No. 17 van 1994: Wysigingswet op Korrektiewe Dienste, 1994.

OFFICE OF THE PRESIDENT

No. 2006.

25 November 1994

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:

No. 17 of 1994: Correctional Services Amendment Act, 1994.

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.

_____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die Wet op Korrektiewe Dienste, 1959, ten einde die aanhouding van onveroordeelde jeugdige persone en vroue verder te reël; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

*(Engelse teks deur die President geteken.)
(Goedgekeur op 16 November 1994.)*

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

Vervanging van artikel 29 van Wet 8 van 1959, soos gewysig deur artikel 104 van Wet 33 van 1960, artikel 8 van Wet 75 van 1965, artikel 9 van Wet 104 van 1983 en artikel 11 van Wet 92 van 1990

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1. Artikel 29 van die Wet op Korrektiewe Dienste, 1959 (hieronder die Hoofwet genoem), word hierby deur die volgende artikel vervang:

“Aanhouding van onveroordeelde jeugdige persone en vroue

29. (1) Ondanks enige andersluidende wetsbepaling—

(a) maar behoudens subartikel (2), word 'n onveroordeelde persoon 10
onder die ouderdom van 14 jaar;

(b) maar behoudens subartikels (2) en (5), word 'n onveroordeelde
persoon wat 14 jaar of ouer maar onder die ouderdom van 18 jaar 15
is,

nie in 'n gevangenis of 'n polisiecel of -opsluitplek aangehou nie.

(2) 'n In subartikel (1)(a) of (b) bedoelde persoon kan in 'n 15
polisiecel of -opsluitplek aangehou word na sy of haar arrestasie totdat
hy of sy voor 'n hof gebring word binne 'n tydperk van hoogstens 24
uur, indien—

(a) sodanige aanhouding noodsaaklik en in die belang van die 20
regspleging is; en

(b) die betrokke persoon nie in die sorg van sy of haar ouer of voog, 25
enige ander geskikte persoon of 'n instelling of 'n plek van
veiligheid soos omskryf in artikel 1 van die Wet op Kindersorg,
1983 (Wet No. 74 van 1983), vir die betrokke tydperk geplaas kan
word nie.

(3) Waar 'n persoon aangehou is in 'n polisiecel of -opsluitplek soos
beoog in subartikel (2) moet die lid van die Suid-Afrikaanse
Polisiediens of die vredesbeampte wat sodanige aanhouding gelas 30
het—

GENERAL EXPLANATORY NOTE:

[Words in bold type in square brackets indicate omissions from existing enactments.

 Words underlined with a solid line indicate insertions in existing enactments.

ACT

To amend the Correctional Services Act, 1959, so as to further regulate the detention of unconvicted young persons and women; and to provide for matters connected therewith.

(English text signed by the President.)
(Assented to 16 November 1994.)

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Substitution of section 29 of Act 8 of 1959, as amended by section 104 of Act 33 of 1960, section 8 of Act 75 of 1965, section 9 of Act 104 of 1983 and section 11 of Act 92 of 1990

1. The following section is hereby substituted for section 29 of the Correctional Services Act, 1959 (hereinafter referred to as the principal Act):

“Detention of unconvicted young persons and women

10 **29.** (1) Notwithstanding anything to the contrary in any law contained—

(a) but subject to subsection (2), an unconvicted person under the age of 14 years;

15 (b) but subject to subsections (2) and (5), an unconvicted person who is 14 years or older but under the age of 18 years, shall not be detained in a prison or a police cell or lock-up.

(2) A person referred to in paragraph (a) or (b) of subsection (1) may be detained in a police cell or lock-up after his or her arrest until he or she is brought before a court within a period not exceeding 24 hours, if—

20 (a) such detention is necessary and in the interests of justice; and

(b) the person concerned cannot be placed in the care of his or her parent or guardian, any other suitable person or any institution or place of safety as defined in section 1 of the Child Care Act, 1983 (Act No. 74 of 1983), for the period in question.

25 (3) Where a person is detained in a police cell or lock-up as contemplated in subsection (2) the member of the South African Police Service or the peace officer responsible for ordering such detention shall—

- (a) die hof voor wie die persoon vir die eerste keer verskyn van 'n skriftelike verslag voorsien waarin die redes vir die aanhouding en 'n verduideliking waarom dit nodig was om die betrokke persoon in 'n polisieel of -opsluitplek aan te hou en om hom of haar daar te hou tot sy of haar eerste verskyning voor die hof, uiteengesit is; of 5
- (b) indien die persoon vrygelaat word voordat hy of sy in 'n hof verskyn, die landdros van die landdrosdistrik waar die aanhouding plaasgevind het van 'n skriftelike verslag voorsien waarin die redes vir die aanhouding en 'n verduideliking waarom dit nodig was om die betrokke persoon in 'n polisieel of -opsluitplek aan te hou, uiteengesit is. 10
- (4) Die verslag bedoel in subartikel (3)(b) moet aan die landdros bedoel in gemelde subartikel voorgelê word nie later nie as een hofdag vanaf die betrokke persoon se vrylating uit aanhouding. 15
- (5) 'n In subartikel (1)(b) bedoelde persoon wat daarvan beskuldig word dat hy of sy 'n misdryf bedoel in Bylae 2 gepleeg het, kan op die bevel van 'n hof vir 'n tydperk van hoogstens 48 uur in 'n gevangenis of 'n polisieel of -opsluitplek vermeld in sodanige bevel aangehou word indien— 20
- (a) die hof gelas het dat sodanige persoon in 'n veiligheidsplek soos omskryf in artikel 1 van die Wet op Kindersorg, 1983, geplaas word; en
- (b) die hof, op grond van getuienis voorgelê, van oordeel is dat opname in sodanige veiligheidsplek nie onmiddellik kan plaasvind nie. 25
- (6) 'n In subartikel (2) of (5) bedoelde persoon wat in 'n gevangenis of 'n polisieel of -opsluitplek aangehou word of wat in bewaring na of van 'n hof oorgebring word of wat, terwyl hy of sy in bewaring is, 'n hof of 'n voorlopige ondersoek bywoon, word afsonderlik van 'n persoon bo die ouderdom van 18 jaar wat in bewaring is, aangehou: Met dien verstande dat hy of sy toegelaat kan word om kontak te hê met so 'n persoon wat in bewaring is en wat gesamentlik met hom of haar aangekla is of aangekla gaan word, indien die lid van die Departement aan die hoof van die gevangenis of die lid van die Suid-Afrikaanse Polisie diens onder wie se toesig die polisieel of -opsluitplek is waarin hy of sy aangehou word, van oordeel is dat sodanige kontak nie nadelig vir hom of haar sal wees nie. 30
- (7) Wanneer 'n vroulike persoon onder die ouderdom van 18 jaar soos voormeld aangehou word of in bewaring is, moet sy onder die sorg van 'n vroulike persoon wees.” 35 40

Wysiging van artikel 95 van Wet 8 van 1959, soos gewysig deur artikel 14 van Wet 62 van 1966 en artikel 29 van Wet 92 van 1990

2. Artikel 95 van die Hoofwet word hierby gewysig deur die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang: 45
- “Die wette in [die] Bylae 1 by hierdie Wet genoem, word, in die mate in die vierde kolom van daardie Bylae uiteengesit, hierby herroep: Met dien verstande dat ondanks die herroeping van bedoelde wette—”.

Invoeging van Bylae 2 in Wet 8 van 1959

3. Die volgende Bylae word hierby in die Hoofwet na die bestaande Bylae by 50 die Hoofwet ingevoeg, terwyl die bestaande Bylae Bylae 1 word:

“BYLAE 2

(Artikel 29(5))

- (a) provide the court before which the person first appears with a written report setting out the reasons for the detention and an explanation as to why it was necessary to detain the person concerned in a police cell or lock-up and to keep him or her there until his or her first appearance before the court; or
- (b) if the person is released before he or she appears in a court, provide the magistrate of the magisterial district in which the detention took place with a written report setting out the reasons for the detention and an explanation as to why it was necessary to detain the person concerned in a police cell or lock-up.
- (4) The report referred to in subsection (3)(b) shall be submitted to the magistrate referred to in the said subsection not later than one court day of the person concerned being released from detention.
- (5) A person referred to in subsection (1)(b) who is accused of having committed an offence referred to in Schedule 2, may on the order of a court be detained in a prison or a police cell or lock-up specified in such order for a period not exceeding 48 hours if—
- (a) the court has ordered such person to be placed in any place of safety as defined in section 1 of the Child Care Act, 1983; and
- (b) the court is satisfied on the basis of evidence adduced that admission to such place of safety cannot immediately take place.
- (6) A person referred to in subsection (2) or (5) who is detained in a prison or a police cell or lock-up or who is being moved in custody to or from a court or who, while in custody, attends a court or a preparatory examination, shall be kept separate from any person over the age of 18 years who is in custody: Provided that he or she may be permitted to have contact with such a person in custody who has been or is to be charged jointly with him or her, if the member of the Department in charge of the prison or the member of the South African Police Service in charge of the police cell or lock-up in which he or she is detained, is of the opinion that such contact will not be detrimental to him or her.
- (7) When a woman under the age of 18 years is detained or in custody as aforesaid, she shall be under the care of a woman.”

Amendment of section 95 of Act 8 of 1959, as amended by section 14 of Act 62 of 1966 and section 29 of Act 92 of 1990

2. Section 95 of the principal Act is hereby amended by the substitution for the words preceding paragraph (a) of the following words:
- “The laws mentioned in [the] Schedule 1 to this Act are hereby repealed to the extent set out in the fourth column of that Schedule: Provided that notwithstanding the repeal of the said laws—”.

Insertion of Schedule 2 in Act 8 of 1959

3. The following Schedule is hereby inserted in the principal Act after the existing Schedule to the principal Act, the existing Schedule becoming Schedule 1:

“SCHEDULE 2

(Section 29(5))

Murder
Rape
Robbery

Aanranding, wanneer 'n gevaarlike wond toegedien word
Menseroof

Brandstigting

Inbraak by of betreding van 'n perseel met die opset om 'n misdryf te pleeg
'n Misdryf kragtens 'n wet betreffende die onwettige vervoer of verskaffing van 5
afhanklikheidsvormende medisyne
'n Sameswering, uitlokking of poging om 'n in hierdie Bylae bedoelde misdryf te
pleeg".

Kort titel en inwerkingtreding

4. (1) Hierdie Wet heet die Wysigingswet op Korrektiewe Dienste, 1994, en 10
tree in werking op 'n datum wat die President by proklamasie in die *Staatskoerant*
bepaal.

(2) Verskillende datums kan ingevolge subartikel (1) ten opsigte van verskil-
lende gebiede in die Republiek bepaal word.

Assault, when a dangerous wound is inflicted

Kidnapping

Arson

Breaking or entering any premises with intent to commit an offence

- 5 Any offence under any law relating to the illicit conveyance or supply of dependence producing drugs

Any conspiracy, incitement or attempt to commit any offence referred to in this Schedule”.

Short title and commencement

- 10 4. (1) This Act shall be called the Correctional Services Amendment Act, 1994, and shall come into operation on a date fixed by the President by proclamation in the *Gazette*.

(2) Different dates may be fixed in terms of subsection (1) in respect of different areas in the Republic.

